



**OFFICE OF
THE ATTORNEY GENERAL
AUSTIN, TEXAS**

PRICE DANIEL
ATTORNEY GENERAL

March 6, 1947

Hon. John F. May
District Attorney
Karnes County
Karnes City, Texas

Opinion No. V-73

Re: Maximum salary of District
Clerk and County Treasurer
of Karnes County, Texas.

Dear Sir:

We quote the following letter from your District Clerk, Mr. Marvin F. Kolinek, which he wrote at your suggestion requesting an opinion from this office on the above subject matter:

"I have been advised by Hon. John F. May, District Attorney for the 81st Judicial District, to write you in regard to the questions I have in mind.

"First I will state a few facts for your information. We are on a salary basis. We have a population of about 20,000. We have a valuation of \$11,280,000.

"As the present set up exists, the County Judge, County Clerk, Sheriff, and Tax Assessor & Collector, are receiving the maximum of \$3750.00 per year. The County Attorney receives \$3000.00 per year, and the District Clerk and County Treasurer receive \$2500.00 per year.

"I will appreciate it very much if you will give me an opinion on this matter, as to whether the District Clerk and County Treasurer may receive the same salary as the County Judge, County Clerk, Sheriff and Tax Assessor and Collector."

Karnes County has a population of 19,248 inhabitants according to the 1940 Census and we are informed by the Comptroller's office that its officials are compensated on a salary basis. Therefore, the compensation of the District and County officials of Karnes County is governed by the provisions of Section 15 of Article 3912e which reads in part as follows:

"The Commissioners' Court in counties having a population of less than twenty thousand (20,000) inhabitants, according to the last preceding Federal Census at the first regular meeting in January of each calendar year, may pass an order providing for compensation of all county and precinct officers on a salary basis. The Commissioners' Court in each of such counties is hereby authorized, and it shall be its duty, to fix the salaries of Criminal District Attorneys. In the event such Court passes such order they shall pay to each of said District and County officers in money an annual salary in twelve (12) equal installments of not less than the total sum earned as compensation by said officer in his said official capacity for the fiscal year of 1935 and not more than the maximum allowed such officer under laws existing August 24, 1935, and not more than the maximum amount allowed such officer under laws existing August 24, 1935, provided, that in counties having a population of less than twenty thousand (20,000) inhabitants, according to the last preceding Federal Census, and having an assessed valuation in excess of Ten Million (\$10,000,000.00) Dollars according to the last preceding approved tax roll of such county the maximum amount allowed such officers as salaries may be increased one (1%) per cent for each One Million (\$1,000,000.00) Dollars valuation, or fractional part thereof, in excess of said Ten Million (\$10,000,000.00) Dollars valuation over and above the maximum amount allowed such officers under laws existing on August 24, 1935; provided, however, no salaries covered by this Section shall exceed the sum of Four Thousand Five Hundred (\$4,500.00) Dollars regardless of the percentage of increase in population and valuation and provided further that in all counties having a population of not less than twenty thousand and one (20,001) and not more than twenty-five thousand (25,000), according to the last preceding Federal Census and which has an assessed valuation in excess of Twenty-five Million (\$25,000,000.00) Dollars according to the last preceding approved tax roll of such counties, the county judge, sheriff,

county attorney, assessor and collector of taxes, county clerk and district clerk, the maximum salary is hereby fixed at Three Thousand and Seven Hundred and Fifty (\$3,750.00) Dollars.

"

"(b) The Commissioners Court is hereby authorized, when in their judgment the financial condition of the county and the needs of the officers justify the increase, to enter an order increasing the compensation of the precinct, county and district officers in an additional amount not to exceed twenty-five (25%) per cent of the sum allowed under the law for the fiscal year of 1944, provided the total compensation authorized under the law for the fiscal year of 1944 did not exceed the sum of Thirty-six Hundred (\$3600.00) Dollars."

Under the provisions of Section 15, Article 3912e, the County and District officials are entitled to not less than the total sum earned as compensation for the fiscal year 1935 and not more than the maximum amount allowed under the law existing August 24, 1935, plus one (1%) per cent for each \$1,000,000.00 valuation or fractional part thereof in excess of \$10,000,000.00 assessed valuation.

According to the records of the Comptroller's office, Karnes County had an assessed valuation in 1943 of \$8,188,360.00 and an assessed valuation in 1946 of \$11,817,610.00. Therefore, in 1944 District and County officials named in Article 3912e, Section 15, were not entitled to any percentage increase over and above the maximum amount allowed such officers under the law existing August 24, 1935, since said county did not have an assessed valuation in excess of \$10,000,000.00. The maximum salary the District Clerk of Karnes County could receive under the law existing August 24, 1935, as fixed by Section 1 of Article 3883 and Article 3891 as amended by Ch. 327, Acts of the 44th Legislature, p. 752 was \$3,000.00. The maximum salary of the County Treasurer of Karnes County could receive under the law existing August 24, 1935, as fixed by Article 3943 as amended by Chapter 346, Acts of the 42nd Legislature, p. 833, was \$2,000.00.

Subdivision (b) of Section 15 of Article 3912e authorizes the Commissioners' Court to allow an additional increase in the compensation of twenty-five (25%) per cent of the sum allowed under the law for the fiscal year of 1944. Therefore, the Commissioners' Court of Karnes County could allow an additional increase of \$750.00 (25% of \$3,000.00) to the District Clerk and an additional increase of \$500.00 (25% of \$2,000.00) to the County Treasurer.

Since Karnes County had an assessed valuation in 1946 of \$11,817,610.00, it is the opinion of this Department that the Commissioners' Court of Karnes County may fix the salary of the District Clerk two (2%) per cent over and above the maximum amount allowed such officer under the law existing August 24, 1935 (\$3,000.00 plus \$60.00) plus an additional increase of twenty-five (25%) per cent over and above the sum allowed under the law for the fiscal year of 1944 (\$750.00). It is further our opinion that the Commissioners' Court of Karnes County may fix the salary of the County Treasurer for the ensuing year two (2%) per cent over and above the maximum amount allowed such officer under the last existing August 24, 1935 (\$2,000.00 plus \$40.00) plus an additional increase of twenty-five (25%) per cent over and above the sum allowed under the law for the fiscal year of 1944 (\$500.00). In other words, the maximum salary that may be allowed the District Clerk of Karnes County is \$3,810.00. (\$3,000.00 plus \$60.00 plus \$750.00) and the maximum that may be allowed the County Treasurer of Karnes County is \$2,540.00 (\$2,000.00 plus \$40.00 plus \$500.00).

SUMMARY

1. The maximum salary that may be allowed the District Clerk of Karnes County is \$3,810.00. Articles 3883, 3891 and Article 3912e, Section 15, V. A. C. S.

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2. The maximum salary that may be allowed the County Treasurer of Karnes County is \$2,540.00. Articles 3943, V. A. C. S.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By

J. C. Davis, Jr.
J. C. Davis, Jr.
Assistant

By

John Reeves
John Reeves
Assistant

JR:djm:mrj

APPROVED MAR. 6, 1947

Price Daniel
ATTORNEY GENERAL OF TEXAS

APPROVED OPINION COMMITTEE
BY BWB, CHAIRMAN